

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TAKE-TWO INTERACTIVE SOFTWARE, INC.,

Plaintiff,

- against -

JOHNATHAN WYCKOFF and JOHN DOES 1–10,

Defendants.

CASE NO. 19-cv-11818

**DECLARATION OF  
MEGAN L. MCKEOWN, ESQ.**

I, MEGAN L. MCKEOWN, declare as follows:

1. I am an attorney at the law firm of Kirkland & Ellis LLP, counsel of record for Plaintiff Take-Two Interactive Software, Inc. (“Take-Two”). I am licensed in the State of New York and admitted to practice before this Court. I submit this declaration in support of Take-Two’s motion for a preliminary injunction.

2. This declaration is based on my personal knowledge and is made to the best of my knowledge, information, and belief.

**Johnathan Wyckoff**

3. On November 7, 2019, Kirkland & Ellis LLP, as outside counsel for Take-Two, contacted Wyckoff by e-mail, setting forth Take-Two’s concerns regarding his development of software files (“RDR-DEP” and the “RDRII Project”) that modify Take-Two’s *Red Dead Redemption* (“RDRI”) and *Red Dead Redemption II* (“RDRII”) video games and requesting that he confirm by no later than November 18, 2019, that he would not release any modification of Take-Two’s video games.

4. Wyckoff has failed to give the requested confirmation.

**Take-Two**

5. A true and correct copy of the U.S. Registration certificate for *Grand Theft Auto V* is attached hereto as **Exhibit 1**. This registration issued within five years of the work's first publication.

6. A true and correct copy of the U.S. Registration certificate for *Red Dead Redemption (for Xbox 360)* is attached hereto as **Exhibit 2**. This registration issued within five years of the work's first publication.

7. A true and correct copy of the U.S. Registration certificate for *Red Dead Redemption II (Xbox One) Game* is attached hereto as **Exhibit 3**. This registration issued within five years of the work's first publication.

8. A true and correct copy of the article titled *Grand Theft Auto V is Now the Best Selling Game of All Time in U.S.*, which is available at <https://www.geek.com/games/grand-theft-auto-v-is-now-the-best-selling-game-of-all-time-in-u-s-1722078/>, is attached hereto as **Exhibit 4**.

9. A true and correct copy of the article titled *GTA 5 Breaks Seven Guinness World Records*, which is available at <https://www.telegraph.co.uk/technology/video-games/10367067/GTA-5-breaks-seven-Guinness-World-Records.html>, is attached hereto as **Exhibit 5**.

10. A true and correct copy of the article titled *GTA 5 Sales Hit \$1 Billion, Will Outsell Entire Global Music Industry*, which is available at <https://www.fool.com/investing/general/2013/09/28/gta-5-sales-hit-1-billion.aspx>, is attached hereto as **Exhibit 6**.

11. A true and correct copy of the article titled *Grand Theft Auto 5 – inside the creative process with Dan Houser*, which is available at

<https://www.theguardian.com/technology/gamesblog/2013/sep/13/grand-theft-auto-5-danhouser>, is attached hereto as **Exhibit 7**.

12. A true and correct copy of the article titled *Earnings report roundup: Game industry winners and losers in Q4 2017*, which is available at [https://www.gamasutra.com/view/news/315575/Earnings\\_report\\_roundup\\_Game\\_industry\\_winn ers\\_and\\_losers\\_in\\_Q4\\_2017.php](https://www.gamasutra.com/view/news/315575/Earnings_report_roundup_Game_industry_winn ers_and_losers_in_Q4_2017.php), is attached hereto as **Exhibit 8**.

13. A true and correct copy of a WayBack Machine preservation of the article titled *Game of the Year*, which is available at <https://web.archive.org/web/20130619193120/http://www.gamespot.com/best-of-2010/game-of-the-year/index.html>, is attached hereto as **Exhibit 9**.

14. A true and correct copy of the article titled *Game of the Year 2010*, which is available at <http://www.gamespy.com/articles/114/1141516p9.html>, is attached hereto as **Exhibit 10**.

15. A true and correct copy of the article titled *Spike TV Announces 2010 'Video Game Awards' Winners*, which is available at <https://www.prnewswire.com/news-releases/spike-tv-announces-2010-video-game-awards-winners-111735219.html>, is attached hereto as **Exhibit 11**.

16. A true and correct copy of the article titled *Red Dead Redemption 2 named Game of the Year at Italian Video Game Awards*, which is available at <https://www.gamesindustry.biz/articles/2019-04-12-red-dead-redemption-2-named-game-of-the-year-at-italian-video-game-awards>, is attached hereto as **Exhibit 12**.

17. A true and correct copy of the article titled *Best Xbox One Game of 2018*, which is available at <https://www.ign.com/articles/2018/12/10/best-xbox-one-game-2018>, is attached

hereto as **Exhibit 13**.

18. A true and correct copy of the article titled *All the Winners from the Australian Game Awards*, which is available at <https://press-start.com.au/news/2018/12/20/all-the-winners-from-the-australian-games-awards/>, is attached hereto as **Exhibit 14**.

19. A true and correct copy of the article titled *Way Down Deep in the Wild, Wild West*, which is available at <https://www.nytimes.com/2010/05/17/arts/television/17dead.html?pagewanted=1&ref=arts&adxnnlx=1274040389-CuFVDLWDBDlpDF6qkY2xna>, is attached hereto as **Exhibit 15**.

20. A true and correct copy of the article titled *Red Dead Redemption 2 could hit 20 million in sales – and turn a profit – by December*, which is available at <https://venturebeat.com/2018/10/31/red-dead-redemption-2-could-hit-20-million-in-sales-and-turn-a-profit-by-december/>, is attached hereto as **Exhibit 16**.

### **Additional Documents**

21. A true and correct copy of the article titled *Here's why Facebook's \$1 billion Instagram acquisition was such a great deal*, which is available at <https://www.vox.com/2017/4/9/15235940/facebook-instagram-acquisition-anniversary>, is attached hereto as **Exhibit 17**.

22. A true and correct copy of the article titled *Instagram, Facebook, and the New Zero-Revenue Acquisitions*, which is available at <https://www.fastcompany.com/1830288/instagram-facebook-and-new-zero-revenue-acquisitions>, is attached hereto as **Exhibit 18**.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 26th day of December, 2019.

*/s/ Megan L. McKeown*

Megan L. McKeown, Esq.